

Internal Revenue Service

Department of the Treasury
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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-107783-09

Date:
June 26, 2009

TY:

Taxpayer =

LP =

Country A:

State A =

Year 1 =

Year 2 =

Dear :

This replies to a letter dated February 2, 2009, in which Taxpayer requests an extension of time under Treas. Reg. §301.9100-3 to file a Form 8848 (Consent to Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2T(a) and (c)).

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer is a foreign corporation organized in Country A. Taxpayer owned a 99% interest in LP, a domestic partnership, which owned and managed a single commercial office building in State A. Other than this ownership interest in LP, Taxpayer had no other assets used in a trade or business in the United States.

In Year 2, LP sold the office building, wound up its operations, liquidated, and distributed its remaining assets to its partners. The following year, after payment of all debts, LP made further distributions to Taxpayer and filed a Certificate of Cancellation with State A. For all subsequent periods through the date of the request, Taxpayer represents that it has not, nor has any related corporation, used the proceeds from the

sale of the building in the conduct of another U.S. trade or business, as provided in Treas. Reg. §1.884-2T(a)(2).

Taxpayer has filed Form 1120F to report its distributive share of income from its interest in LP since Year 1. Taxpayer's tax return preparer reported the gain from the sale of the office building on Taxpayer's Form 1120F in Year 2. The tax return preparer did not show any branch profits tax as owing in Year 2, yet failed to file Form 8848 with Form 1120F. The tax return preparer did not inform Taxpayer of the need to file Form 8848. Taxpayer was unaware that it had to file Form 8848 until a certified public accountant raised this issue with auditors of a related company. The auditors notified Taxpayer who shortly thereafter consulted with an attorney, who confirmed this advice. The IRS did not discover Taxpayer's failure to timely file the required statement before this request for relief was filed.

Taxpayer requests an extension time under Treas. Reg. §301.9100-3 to file a Form 8848.

Treas. Reg. §301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in Treas. Reg. §301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. §301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. §301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

Treas. Reg. §301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. §301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

In the present situation, Treas. Reg. §1.884-2(c)(2)(iii) fixes the time to file Form 8848. Therefore, the Commissioner has discretionary authority under Treas. Reg. §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. §301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. §301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file its Form 8848.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election. Treas. Reg. §301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Elizabeth U. Karzon
Chief, Branch 1
Office of the Associate Chief Counsel
(International)